

REMARKS

Applicants have carefully considered the March 3, 2009 Office Action, and the amendments above together with the comments that follow are presented in a bona fide effort to address all issues raised in that Action and thereby place this case in condition for allowance. Claims 1-12 are pending in this application.

In response to the Office Action dated March 3, 2009, claims 7, 8 10 and 12 have been amended to address antecedent basis issues and to correct multiple dependencies. Applicants submit that the present Amendment does not generate any new matter issue. Entry of the present Amendment is respectfully solicited. It is believed that this response places this case in condition for allowance. Hence, prompt favorable reconsideration of this case is solicited.

Claims 8-12 were objected to for being improper multiple dependent claims. Claims 8, 10 and 12 have been amended to depend from claim 1. Reconsideration and withdrawal of the objection are solicited in view of the claim amendments. Claims 9 and 11 are not multiple dependent claims and in view of the amendments to claims 8, 10 and 12, there are believed to be in proper dependent form.

Claims 7-9 were rejected under 35 U.S.C. § 112, second paragraph. The antecedent basis issues have been addressed with the foregoing amendments to claims 7 and 8. Therefore, it is respectfully submitted that the imposed rejection 35 U.S.C. § 112, second paragraph is not legally viable and hence, Applicants solicit withdrawal thereof.

Claims 1-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tobisaka et al. (EP 1 065 175, hereinafter "Tobisaka"). Applicants traverse.

Independent claim 1 describes, in pertinent part, a glass particle deposited body manufacturing method wherein an average reciprocating movement distance of the one set is less

than double a burner-to-burner interval. As described at numbered paragraph [0038] of the published version of the present application, the “average reciprocating movement distance in one set” means the average distance of reciprocating movement in which the total movement distance in one set is divided by the number of reciprocations in one set. Applicants submit that Tobisaka does not disclose or remotely suggest “an average reciprocating movement distance in one set is less than double a burner-to-burner interval.”

In Fig. 3A of Tobisaka, the total movement distance in one set is about 300 mm x 11 times of reciprocation (the number of reciprocation: 11, the average reciprocating movement distance: about 300 mm), which is **larger** than the burner interval of 150 mm. In other words, Tobisaka is distinct from the present claimed subject matter in which an average reciprocating movement distance in one set is **less** than double a burner-to-burner interval. Thus, the Examiner’s rejection with respect to independent claim 1 is not legally viable and should be withdrawn. If any independent claim is non-obvious under 35 U.S.C. § 103(a), then any claim depending therefrom is non-obvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

It would appear that the Examiner considers a total movement distance to be a total movement distance of a turn-back location. However, since “the average reciprocating movement distance in one set” is clearly defined in the present specification at [0038], the Examiner’s interpretation is improper and inconsistent with Applicants supporting disclosure.

Furthermore, the Examiner’s attention is invited to Fig. 3A of Tobisaka, wherein a taper portion is substantially as long as the burner interval. See also, “TOTAL LAYER QUANTITY” in Fig. 3B of Tobisaka. Therefore, the taper portion of Tobisaka is substantially as long as the conventional art described in Fig. 8 of the present application. Accordingly, a result of

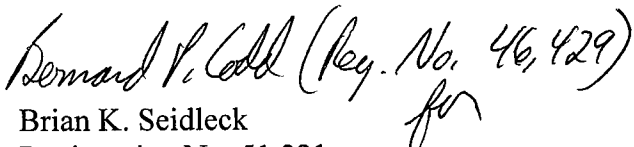
shortening a taper portion, as in the present claimed subject matter, is not achieved in Tobisaka.

It is believed that all pending claims are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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